



TENNESSEE REGISTRY OF ELECTION FINANCE

Contribution Audit of Representative Frank Forrest Buck Pre-General 2006



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October 3, 2007

Members of the Registry of Election Finance
404 James Robertson Parkway, Suite 1614
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Ladies and Gentlemen,

Transmitted herewith are the agreed upon procedures for the un-itemized contribution audit of Representative Frank Forrest Buck's Pre-General Campaign Financial Disclosure Statement for his 2006 election campaign for the House of Representatives. This audit was conducted pursuant to the requirements of Section 2-10, *Tennessee Code Annotated*, the Comprehensive Governmental Ethics Reform Act of 2006.

The procedures were developed to aid the Registry of Election Finance in its responsibilities to monitor and enforce Tennessee's Campaign Financial Disclosure Law and Campaign Contribution Limits Law. The candidate is responsible for complying with campaign finance laws and the accuracy of campaign financial disclosures. The sufficiency of these procedures is solely the responsibility of the Registry's internal audit group. Consequently, we make no representation regarding the sufficiency of the agreed upon procedures described in the report for any other purpose than aiding the Registry.

This report is intended for the information and use of the Members of the Tennessee Registry of Election Finance as outlined; and is not intended to be and should not be used by anyone other than the Registry without understanding the objectives, purposes, and underlying assumptions. This report, however, is a matter of public record.

Sincerely,

Jay Moeck, CPA, CFE
Audit Manager

STATE OF TENNESSEE
REGISTRY OF ELECTION FINANCE

Audit Highlights
Representative Frank Forrest Buck
2006 Pre-General Contribution Audit

AUDIT OBJECTIVES

The objectives of the audit were to determine Representative Frank Forrest Buck's compliance with certain provisions of campaign finance disclosure laws and regulations; compliance with certain provisions of campaign contribution limits laws and regulations; accuracy and completeness of the un-itemized contribution disclosures on his 2006 Pre-General Campaign Financial Disclosure Statement; and to recommend appropriate actions to correct any deficiencies.

FINDING

1. Rep. Buck failed to itemize all contributions from individuals or PACs who contributed more than \$100.00 during the reporting period. Rep. Buck did not itemize all contributions for each individual or PAC who contributed a total amount of more than one hundred dollars (\$100.00) during the pre-general reporting period. The four contributions represented \$2,470.00 or approximately 20% of the un-itemized contributions that the candidate should have itemized on his 2006 pre-general report. The improper classifications violated T.C.A. §2-10-107(a)(2)(A)(i).

2. Rep. Buck received a cash contribution in violation of campaign limits laws. Rep. Buck received \$200.00 in cash contributions from an individual in violation of T.C.A. §2-10-311 which states, "No person shall make cash contributions to any candidate with respect to any election that, in the aggregate, exceed fifty dollars (\$50.00)."

3. Rep. Buck's campaign records indicated that he overstated his campaign contributions by \$798.00. Rep. Buck's bank deposits and supporting campaign records for the 2006 pre-general reporting period were \$28,018.00; however, he reported contributions of \$28,816.00. The \$798.00 difference is a violation of T.C.A. §2-10-107(a)(2)(A)(i).

4. Rep. Buck did not follow the Registry rules for bookkeeping. Rep. Buck did not follow the Registry rules for bookkeeping procedures. Although not required by statute, the Registry has developed guidance for candidates for maintaining their records of campaign activities. Rep. Buck's adherence with the bookkeeping rules may have averted the other findings reported.

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INTRODUCTION

AUDIT AUTHORITY

In February 2006, the Tennessee Legislators and Governor Phil Bredesen enacted the “Comprehensive Governmental Ethics Reform Act of 2006,” which amended Tennessee’s campaign finance disclosure laws and duties of the Registry of Election Finance. The legislation established the audits of campaign disclosure reports. *Tennessee Code Annotated* (T.C.A.) §§2-10-206 and 2-10-212 authorize the Registry of Election Finance (Registry) to conduct audits of campaign finance disclosure statements filed with the Registry. The audit was initiated based on T.C.A. §2-10-212(i), which requires the Registry to audit any candidate that files a disclosure statement with more than 30% of the candidate’s contributions reported as un-itemized contributions and the un-itemized contributions were greater than \$5,000.00.

AUDIT PURPOSE

The Registry’s contribution audits were developed to assist and encourage candidate compliance with campaign disclosure laws. The audit process assists the Registry in providing timely and accurate campaign information to government officials and the general public. The Registry’s audits provide a tool to the Registry to evaluate the effectiveness of the campaign financial disclosure process. In addition, the audits assist the Registry with the enforcement of campaign finance limit laws and campaign finance disclosure laws. Finally, the audit reports are intended to assist the candidate and the State of Tennessee with promoting governmental accountability and integrity.

AUDIT SCOPE

Tennessee’s campaign financial disclosure law requires candidates to make biannual financial disclosures as of the date of the first contribution or first expenditure, whichever occurs earlier. The biannual report periods are from January 16 to June 30 and July 1 to January 15 of each year. During an election year, the disclosures expand to quarterly reports, pre-primary reports, and pre-general reports. This audit relates to disclosures made subsequent to the passage and approval of the Comprehensive Governmental Ethics Reform Act of 2006. The act was approved on February 15, 2006. In addition, the audit relates to only disclosure reports that meet the requirements listed in T.C.A. §2-10-212(i). Therefore, the audit reviewed only Rep. Buck’s disclosures on his 2006 pre-general report.

CAMPAIGN OVERVIEW

CAMPAIGN ORGANIZATION

Rep. Buck was a candidate in the November 7, 2006 general election for the House of Representatives for district 40. Rep. Buck filed the Appointment of Political Treasurer Statement with the Registry on December 8, 2004 appointing Kathryn Buck Pursell as political treasurer.

Rep. Buck's first financial disclosure for the 2006 campaign was the 2005 early supplemental report filed on January 31, 2006. As of August 31, 2007, the Rep. Buck's most current financial disclosure report was the 2006 annual mid-year supplemental (2007), which he filed on July 16, 2007. The 2006 annual mid-year supplemental (2007) report indicated \$177.43 in cash on hand, \$900.00 in outstanding obligations, and \$0.00 in outstanding loans. The candidate has not completed his 2006 election campaign reporting requirements. The candidate's next report will be due on January 31, 2008 and will cover the period of July 1, 2007 to January 15, 2008.

OVERVIEW OF FINANCIAL ACTIVITIES

The following financial amounts are a summary of the financial disclosures made by the candidate. The summarized amounts are from the following disclosure reports: 2005 early supplemental, 2006 first quarter, 2006 second quarter, 2006 pre-primary, 2006 third quarter, 2006 pre-general, 2006 fourth quarter, and 2006 annual mid-year supplemental (2007) reports after amendments. As noted in the audit scope, we only audited the un-itemized contributions from disclosures for the 2006 pre-general report. The amounts displayed are for informational purposes only.

<u>Summary of Financial Activity</u>		
<u>(Un-audited Amounts)</u>		
Cash on hand at January 1, 2005		\$43.35 1
Receipts		
Itemized	\$32,838.00	
Un-itemized	18,547.00	
Interest	0.00	
Loans receipted	0.00	
Total receipts		<u>\$51,385.00</u>
Disbursements		
Itemized	43,650.62	
Un-itemized	7,600.30 2	
Loans principal payments	0.00	
Total disbursements		<u>\$51,250.92</u>
Cash on hand at June 30, 2007		<u>\$177.43</u>
Loans outstanding at June 30, 2007		\$0.00
Obligations at June 30, 2007		\$900.00
Total in-kind contributions received		\$1,899.42

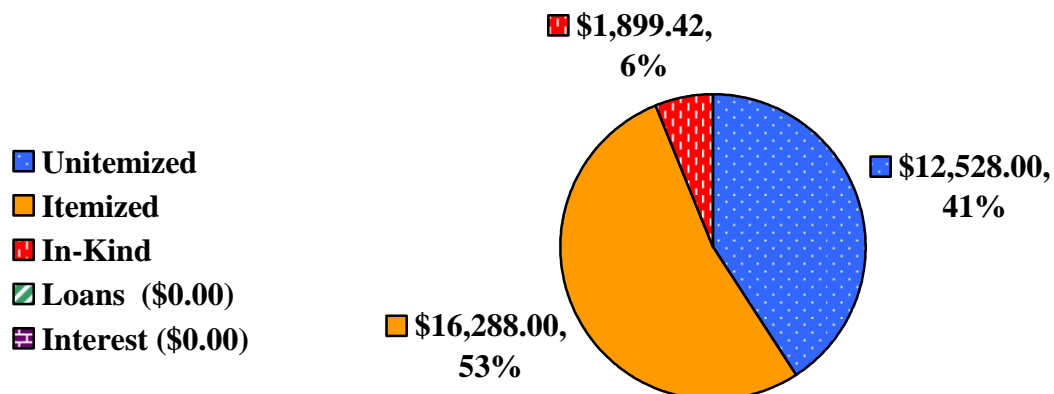
1 The cash balance at 1/1/2005 is funds transferred from the candidate's 2004 campaign.

2 The balance includes a \$245 difference reported as the balance on hand between the fourth quarter and 2006 annual mid-year supplemental 2007. When a candidate has less the \$1,000 in activity during a reporting period, the detail of the activities performed are not required. This occurred during the 2006 mid-year supplemental (2007) report. Since the mid-year supplemental balance is less than the fourth quarter balance, the difference is shown as an un-itemized expense.

CHARTS

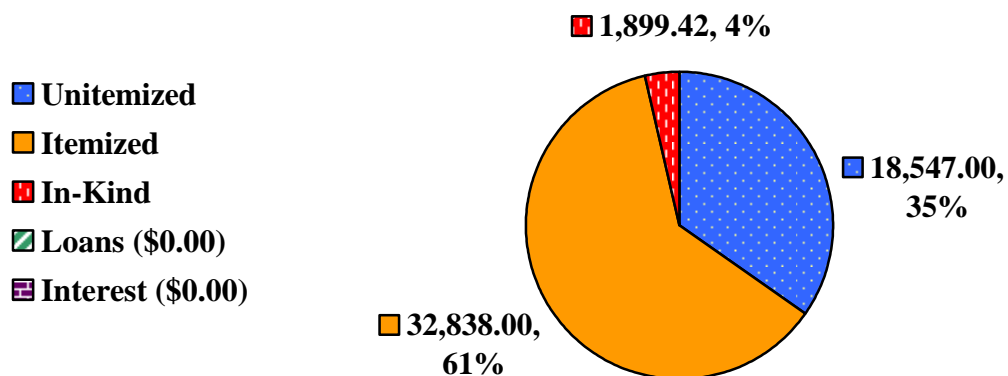
2006 PRE-GENERAL CONTRIBUTIONS

The following chart shows the contributions reported by the candidate in the 2006 pre-general report.



2006 ELECTION CAMPAIGN CONTRIBUTIONS

The following chart shows the contributions reported by the candidate for the 2006 election campaign.



OBJECTIVES, METHODOLOGIES, CONCLUSIONS

UN-ITEMIZED CONTRIBUTIONS AND RECEIPTS

Audit Objectives:

The objectives of our audit of un-itemized contributions were to determine whether:

- campaign contributions from individuals and Political Action Committees (PAC) were within limits;
- all contributions were from non-prohibited sources;
- all contributions received were reported, reported in the proper period, reported in compliance with T.C.A. §§2-10-105 and 2-10-107, and reported in compliance with the Registry's rules; and
- all contributions were supported by bank statements and deposit slips.

Audit Methodology:

The Registry obtained Rep. Buck's 2006 Pre-General Campaign Financial Disclosure Statement Amended on November 5, 2006 to verify that the un-itemized contributions were greater than \$5,000.00 and 30% of the total contributions reported. We requested Rep. Buck to provide supporting documentation for the un-itemized contributions of \$12,528.00 that he reported on his 2006 pre-general report. Rep. Buck's campaign records for the pre-general report included his bank statements, deposit slips, and contributor lists. The following steps were performed on Rep. Buck's campaign documentation:

- The documentation was reviewed to determine if the candidate's un-itemized contributions received from October 1, 2006 thru October 28, 2006 totaled \$12,528.00.
- A list of un-itemized contributions was prepared and compared to the candidate's bank statements to determine if the candidate deposited all funds into a campaign bank account and properly recorded the funds.
- A list of un-itemized contributions by contributor was prepared and compared to the candidate's itemized contributions reported during the election to determine if campaign contributions from individuals and PACs complied with campaign contribution limits, T.C.A. §2-10-301, et seq.
- An un-itemized contributions list was reviewed to determine if all contributions were reported, all receipts received were reported, all contributions were reported in the

proper period, all contributions were reported in compliance with T.C.A. §§2-10-105 and 2-10-107, and all contributions were reported in compliance with the Registry's rules.

Audit Conclusion:

Rep. Buck's 2006 Pre-General Campaign Financial Disclosure Statement Amended on November 5, 2006 reported un-itemized contributions greater than \$5,000.00 and 30% of the total contributions. The campaign records indicated that Rep. Buck failed to itemize all contributions from individuals or PACs who contributed more than \$100.00 during the reporting period (Finding 1). The records also indicated, Rep. Buck received a cash contribution in violation of campaign limits laws (Finding 2). In addition, Rep. Buck overstated his un-itemized contributions on his 2006 pre-general report (Finding 3). Finally, Rep. Buck did not follow the Registry rules for bookkeeping, which could have mitigated or averted the other findings reported (Finding 4).

FINDINGS

1. Rep. Buck failed to itemize all contributions from individuals or PACs who contributed more than \$100.00 during the reporting period.

Rep. Buck did not itemize all contributions for each individual or PAC that contributed a total amount of more than one hundred dollars (\$100.00) during the pre-general reporting period. The campaign records indicated the following errors:

- The candidate received a \$2,000.00 check from a PAC during the pre-general reporting period. The \$2,000.00 contribution was included in the pre-general report's un-itemized contributions.
- The candidate reported an itemized contribution of \$188.00 from an individual on his pre-general report. The candidate reported an additional \$100.00 contribution from the same individual in his un-itemized contributions.
- The candidate received two checks totaling \$170.00, one for \$100.00 and one for \$70.00, from an individual during the pre-general reporting period. The \$170.00 in contributions was included in the pre-general report's un-itemized contributions.
- The candidate received two checks totaling \$200.00, each for \$100.00, from an individual during the pre-general reporting period. The \$200.00 in contributions was included in the pre-general report's un-itemized contributions.

In all four instances, Rep. Buck was required to itemize the un-itemized contributions. The four improperly reported contributions, totaling \$2,470.00 (20% of un-itemized contributions), violated T.C.A. §2-10-107(a)(2)(A)(i), which requires contributions of more than \$100.00 from one source received during a reporting period to be itemized. The candidate must disclose the full name, complete address, occupation and employer of each individual, and the amount contributed by the individual for itemized contributions.

2. Rep. Buck received a cash contribution in violation of campaign limits laws.

An individual's total cash contributions exceeded the campaign finance limit in violation of T.C.A. §2-10-311 which states, "No person shall make cash contributions to any candidate with respect to any election that, in the aggregate, exceed fifty dollars (\$50.00)." If not specifically instructed by the contributor, the candidate may allocate a contribution between the primary election and the general election. For example, an individual may contribute \$100.00 in cash, which the candidate can allocate \$50.00 to the primary election and \$50.00 to the general election. Rep. Buck's campaign records indicated that he received \$200.00 in cash from one individual during the pre-general reporting period, exceeding the cash contributions limit by \$100.00. In addition, the \$200.00 contribution was included as an un-itemized contribution. As outlined in finding 1, contributions greater than \$100.00 are required to be itemized.

3. Rep. Buck's campaign records indicated that he overstated his campaign contributions by \$798.00.

Rep. Buck did not maintain sufficient campaign records to support the contributions disclosed on his 2006 Pre-General Campaign Financial Disclosure Statement. He reported \$28,816.00 in total contributions, which included \$12,528.00 in un-itemized contributions and \$16,288.00 in itemized contributions, on his 2006 pre-general report. Rep. Buck's campaign bank account records indicated deposits of \$27,867.00 for the 2006 pre-general reporting period. The campaign records supported \$28,018.00 in total contributions, \$16,288.00 in itemized contributions and \$11,730.00 in un-itemized contributions, which included \$151.00 in contributions that the candidate received but did not deposit into his campaign account. Instead of depositing the \$151.00 in contributions into his campaign account, Rep. Buck used the funds for campaign expenses. The \$798.00 difference between contributions supported of \$28,018.00 and contributions reported of \$28,816.00 violated T.C.A. §2-10-107(a)(2)(A)(i), which requires accurate reporting of contributions on each campaign financial disclosure statement.

4. Rep. Buck did not follow Registry rules for bookkeeping.

Rep. Buck did not follow Registry rules for bookkeeping. Although not required by statute, the Registry has developed guidance for candidates for maintaining the records of campaign activities. This guidance is not the sole method for maintaining records and does not include all variations of campaign activities; however, if the candidate had followed the guidance, he may have averted the findings noted above. The candidate did not implement the following Registry rules, which resulted in inadequate campaign records:

- Registry Rules 0530-1-3-.05 and 0530-1-1-.02(6) state that a candidate through his/her record-keeping system must be able to determine the aggregate amount of contributions received per election from each contributor. The Registry recommends that candidates and their committees maintain photocopies of all contribution checks received or in the alternative, a journal or listing of contributions.
- Registry Rules 0530-1-1-.02(1), 0530-1-1-.02(2), and 0530-1-1-.02(4) state that campaign contributions should be deposited into the campaign account within ten (10) business days of the receipt date, not commingled with any other funds, and from which all expenses are paid. (The rules define a campaign account as a separate account into which all contributions shall be deposited and from which all campaign monies are expended.)
- Registry Rule 0530-1-1-.02(8) states that a candidate should perform bank reconciliations that reconcile the bank account and the campaign records to the financial disclosure statements.

RECOMMENDATION TO CANDIDATE

Rep. Buck should amend his 2006 Pre-General Campaign Financial Disclosure Statement to ensure that he reports all individuals who contributed more than \$100.00 during the reporting period as itemized. Rep. Buck should review his cash contributions and refund any funds in excess of the cash contribution limit to the applicable contributor. He should then amend his 2006 Pre-General Campaign Financial Disclosure Statement for any funds refunded. Rep. Buck should ensure the campaign adopts and maintains a record-keeping system to distinguish between contributions made for a primary election and those made for a general election, and to determine the aggregate amount of contributions received per election from each contributor. In addition, the system should be able to determine the aggregate amount of contributions received per reporting period from each contributor. Rep. Buck should ensure all contributions are deposited into the campaign account within 10 days of receipt and all campaign expenses are paid from the same account. Rep. Buck should ensure the campaign bank account reconciles to the campaign disclosure reports.

RECOMMENDATION TO REGISTRY

We recommend the Members of the Registry consider the findings for possible further action. We recommend the Registry approve the audit performed as being sufficient and complete. Finally, we recommend the Registry post the audit report to the Registry's web site notwithstanding whether a significant penalty is assessed, as outlined in T.C.A. §2-10-212(f). The report and related findings will assist current and future candidates in understanding the audit process, the purposes of Registry rules, and types of procedures needed to comply with campaign finance laws.

RESOLUTIONS

CANDIDATE'S CORRECTIVE ACTIONS

After discussing the above findings with Rep. Buck, he chose to take corrective action on his reports prior to the Registry's approval of the audit. Rep. Buck amended his 2006 Pre-General Campaign Financial Disclosure Statement on August 8, 2007 and September 28, 2007. The corrective actions detailed below resulted in a new aggregate amount for un-itemized contributions of \$10,058.00.

Correction Action - Finding 1:

On his amended pre-general report, Rep. Buck moved \$2,470.00 from un-itemized contributions to itemized contributions by making the following changes:

- He itemized the \$2,000.00 PAC contribution.
- He itemized the additional \$100.00 contribution from one individual.
- He itemized the \$170.00 contributions from one individual.
- He itemized the \$200.00 contributions from one individual.

The campaign records provided by the candidate verified the corrections and detailed disclosures. The current amended report properly disclosed these contributions.

Correction Action - Finding 2:

In a letter dated September 28, 2007, Rep. Buck stated that the \$200.00 cash donation was from an individual and his spouse. This contradicts the campaign records previously provided by the candidate. A \$200.00 cash contribution from an individual and spouse is allowable according to T.C.A. §2-10-311. These changes stated by the candidate allow the contributions to remain un-itemized.

REGISTRY OF ELECTION FINANCE ACTIONS

The Members of the Registry of Election Finance reviewed the 2006 contribution audit of Representative Frank Forrest Buck during the October 10, 2007 regular monthly meeting. The report contained four findings with recommendations for corrective actions. The Registry voted to approve the audit report and to issue a show cause notice for not itemizing four contributions, for accepting a \$200 cash contribution and for overstating total contributions. Subsequent actions by the Registry related to the show cause notice will appear in the subsequent board minutes.